

Your Committee, to which this proposal was referred, has amended the proposal to read as follows and recommends its adoption as amended.

---

CITY COUNTY COUNCIL

PROPOSAL NO. 144, 2016

CITY OF INDIANAPOLIS-MARION COUNTY, INDIANA

---

INTRODUCED: 03/21/2016

REFERRED TO: Public Safety and Criminal Justice Committee

SPONSOR: Councillors Adamson, Freeman, Lewis and Miller

DIGEST: prohibits the operation of Unmanned Aircraft Systems at certain locations and at certain times

---

SOURCE:

Initiated by: Councillor Adamson

Drafted by: Fred Biesecker, General Counsel

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL:



Date: March 17, 2016

---

CITY-COUNTY GENERAL ORDINANCE NO. , 2016

A PROPOSAL FOR A GENERAL ORDINANCE prohibiting the operation of Unmanned Aircraft Systems at certain locations and at certain times.

WHEREAS, according to the Federal Aviation Administration (FAA), incidents involving unauthorized and unsafe use of small, remote-controlled aircraft have risen dramatically, as illustrated by pilot reports of interactions with suspected unmanned aircraft, which increased from 238 sightings in all of 2014 to 780 sightings in just the first 8 months of 2015; and

WHEREAS, unmanned aircraft systems (UAS), commonly known as "drones", are aircraft subject to regulation by the FAA to promote safety of flight and safety of people and property on the ground; and

WHEREAS, current FAA regulations distinguish between "model aircraft," which are UAS flown only for hobby or recreational purposes, and UAS flown for business or commercial purposes; and

WHEREAS, FAA guidance says that model aircraft should be flown a sufficient distance from populated areas; and

WHEREAS, 14 CFR Section 91.119(b) provides that, except when necessary for takeoff or landing, no person may operate an aircraft over any congested area of a city, or over any open air assembly of persons, below an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft; and

WHEREAS, the FAA has also restricted flights over stadiums during NFL games, NCAA football games, major league baseball games, and motor speedway events; and

WHEREAS, in order to be authorized to fly a UAS for business or commercial purposes, a UAS operator usually must petition the FAA for an exemption under Section 333 of Public Law 112-95. When

granted, a Section 333 exemption may provide relief from current FAA rules where appropriate until the FAA's final rulemaking on small UAS is completed (which is expected to occur this summer); and

WHEREAS, the Council believes that local enforcement of reasonable UAS flight restrictions will better promote public safety and protect persons gathered in groups where a UAS incident would pose a greater risk of injury; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Revised Code of the Consolidated City and County be, and is hereby, amended by adding a new Article IV in Chapter 407, to read as follows:

ARTICLE IV. UNMANNED AIRCRAFT SYSTEMS

**Sec. 407-101. Definitions.**

As used in this Article, the following terms are as defined as follows:

*Unmanned Aircraft System (UAS)* means a device that is intended to navigate in the air without an onboard pilot and controlled autonomously or remotely. Unmanned aircraft systems are also referred to as "drones" or "quad copters." UAS includes, but is not limited to, powered aerial vehicles that store and/or transmit data, such as photos, video, thermal images, and intercepted wireless communications.

*Law enforcement agency* means an established state authorized local and/or county agency, including a campus law enforcement agency, which is responsible for the prevention and detection of crime and/or the enforcement of state, local, and traffic laws.

*Public event* means any event, game, practice, contest, parade, rally, celebration or other gathering, in either private space or public space, to which the public is invited or attends.

*Private space* means any indoor or outdoor property owned or controlled by a private individual or entity.

*Public space* means any indoor or outdoor property (including streets and sidewalks) owned or controlled by federal, state or local government, or an instrumentality of federal, state or local government, or any privately owned, operated or controlled venue hosting events to which the public is invited or attends, including Bankers Life Fieldhouse, Lucas Oil Stadium, the Indiana Farm Bureau Football Center, Victory Field, the Indiana Convention Center, the White River State Park, the Indianapolis Zoo, the Indiana State Fair Grounds and Event Center, the Indiana Farmers Coliseum, the Michael A. Carroll Track & Soccer Stadium, the Children's Museum of Indianapolis, the Indianapolis Museum of Art or Clowes Hall.

**Sec. 407-102. Territorial application.**

This ordinance applies throughout the Consolidated City of Indianapolis and Marion County, including the excluded cities, to the extent to which such air space can legally be regulated by local ordinance. This ordinance shall not interfere with the authority of the Federal Aviation Administration. The air space subject to this ordinance shall include all properties in the Consolidated City of Indianapolis and Marion County, including the excluded cities; there shall be no exemptions.

**Sec. 407-103. Prohibited unmanned aircraft system (UAS) activities.**

In order to protect against potential crashes into crowded outdoor stadiums, as well as to inhibit commercial piracy and other potential threats to public safety, it shall be unlawful without proper operator licensure and approval as determined by applicable state and federal laws, rules, and regulations, for a person to use or operate, ~~or to attempt to use or operate~~, an Unmanned Aircraft System (UAS) ~~under the following circumstances~~ within a 500 yard horizontal radius of, or anywhere above:

- 1) ~~At any official sporting event, contest or celebration~~ Any public event, including a public event of the National Football League (NFL), National Basketball Association (NBA), National Collegiate Athletic Association (NCAA), North American Soccer League (NASL), Minor League Baseball (MiLB), Indiana High School Athletic Association (ISHAA) or any other sanctioned amateur or professional sports league.
- 2) ~~At a~~Any official auto car race or public event held at the Indianapolis Motor Speedway (IMS) or held or hosted by the 500 Festival.
- 3) In violation of any state or federal laws, rules or regulations.

#### **Sec. 407-104. Nonapplicability.**

a) It is lawful to use an Unmanned Aircraft System (UAS) within the City of Indianapolis/Marion County to photograph, film, audiotape, or otherwise record an individual or individuals acting ~~on private property in a public event~~:

- 1) If such use or operation is approved or authorized in writing by the owner of the private space or public space in which the public event is being held, or their assignee(s) having legal control over such private space or public space during such public event;
- 4) 2) If the recording is captured for the purpose of mapping;
- 2) 3) If the recording is captured by a City of Indianapolis/Marion County official in the course of their employment or an individual or entity under contract with the City of Indianapolis/Marion County for the purposes of resource management, operation and maintenance of utilities to determine integrity of the utility or to determine repairs.
- 3) 4) If law enforcement is using the unmanned aircraft system to execute a valid search warrant or if law enforcement is acting under circumstances in which an exception to the warrant requirement is applicable.
- 4) 5) If law enforcement is conducting a search for a missing or abducted person.
- 5) 6) If law enforcement has reasonable suspicion to believe there is immediate danger of death or serious injury to any person. Within 24 hours of prohibiting such use, law enforcement shall document the basis for the reasonable suspicion.
- 6) 7) Subject to Sec. 407-103, any other purpose not in violation of federal, state or local laws.

b) ~~Although it is lawful for private individuals, public or commercial entities to use an unmanned aircraft system if they have a Certificate of Authority (COA) issued by the Federal Aviation Administration (FAA) pursuant to a Section 333 and Section 336 exemption of the Modernization and Reform Act of 2012 (FMRA), it is intended that Sec. 407-103 nonetheless applies except to the extent it is specifically pre-empted by federal or state law. If an FAA approved commercial operator is granted approval by federal authorities to use a UAS under circumstances where such use would otherwise be prohibited under Section 407-103, the operator shall provide the following information to IMPD at least 48 hours prior to the event: (1) a copy of the registration certificate of any UAS intended to be used; (2) a copy of the cover page of the operator's Section 333 exemption; and (3) a copy of the operator's Certificate of Waiver or Authorization (COA) and Transportation Security Administration security waiver (if applicable). Failure to timely provide these documents constitutes a violation under Section 407-105.~~

#### **Sec. 407-105. Violations.**

- a) Any person who violates the provisions of this article is punishable by a maximum civil penalty of five hundred dollars (\$500.00), plus the costs of enforcement, including reasonable attorney fees.
- b) Except where otherwise expressly provided, a person who violates any provision of Section 407-103 of this Code shall be subject to the penalties and procedures provided in section 103-3 of this Code.

b) c) In addition to the civil penalty specified under this article, any UAS and control box operated in violation of this ordinance may be temporarily impounded in the interest of public safety until the owner or operator of such UAS and control box are able to demonstrate nonapplicability of this Article under Section 407-104. The owner of the UAS may appeal any impoundment to a court having jurisdiction in Marion County.

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 2 4. This ordinance shall be in full force and effect after its passage and approval by the City-County Council and compliance with IC 36-3-4-14.

The foregoing was passed by the City-County Council this \_\_\_\_\_ day of \_\_\_\_\_, 2016, at \_\_\_\_\_ p.m.

ATTEST:

\_\_\_\_\_  
Maggie A. Lewis  
President, City-County Council

\_\_\_\_\_  
NaTrina DeBow  
Clerk, City-County Council

Presented by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2016, at 10:00 a.m.

\_\_\_\_\_  
NaTrina DeBow  
Clerk, City-County Council

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Joseph H. Hogsett, Mayor